

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND ALAN STOLL, D.D.S.**

Come now Alan Stoll, D.D.S. ("Licensee") and the Missouri Dental Board ("Board") and enter into this settlement agreement ("Board Settlement Agreement") for the purpose of resolving the question of whether Licensee's license as a dentist will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo 2000¹, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo 2000.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into the Board Settlement Agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the documents relied upon by the Board in determining there was cause to discipline his license, along with citations to law and/or regulations the Board believes was violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in paragraphs 6 and 7 the Board Settlement Agreement are true and stipulates with the Board that Licensee's license, numbered 013715 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 332, RSMo.

¹ Unless otherwise noted, all references to RSMo are to RSMo, as amended.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Dental Board ("Board") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo, for the purpose of executing and enforcing the provisions of Chapter 332.

2. Licensee Alan Stoll, D.D.S. is licensed by the Board as a dentist, License No. 013715. Licensee's Missouri license was active and current at all relevant times.

3. On April 14, 2011, the Board received a copy of the Letter of Censure issued by the Department of Health and Senior Services' Bureau of Narcotics and Dangerous Drugs (BNDD) to Licensee on April 12, 2011. Generally, the letter stated that Licensee had several violations of Missouri drug laws related to documentation including failing to complete all copies of a Drug Enforcement Agency (DEA) form, failing to maintain complete controlled substance dispensing/administration logs, failing to document all controlled substance prescriptions in patients' charts and failing to provide adequate security to detect and prevent diversion of controlled substances. BNDD censured Licensee's controlled substances registration.

4. On November 3, 2004, the BNDD issued Licensee a Letter of Warning for controlled substances violations.

5. On March 22, 2011, BNDD Investigator Dennis Moore visited Licensee's practice location to conduct an inspection of controlled substance record keeping and security. The investigative report identified five violations of state and federal drug laws. As a result of the March 22, 2011 inspection and resulting violations, the BNDD censured Licensee's controlled substance registration in a letter dated April 12, 2011. BNDD issued the Letter of Censure in lieu of a public disciplinary action and restriction on his registration pursuant to § 195.040.7, RSMo.

6. One violation identified in the April 12, 2011 Letter of Censure is that Licensee did not document the quantity received or date of receipt on the third copy of DEA Form 222 Official Order Form #043019719 and Licensee did not execute the third copy of DEA Form 222 Official Order Form in violation of federal regulation 21 CFR 1305.09(e) and § 195.050.3, RSMo.

7. Another violation identified in the April 12, 2011 Letter of Censure is that Licensee's dispensing/administration log did not document the patients' addresses or drug strength. In doing so, Licensee did not maintain complete controlled substance records and dispensing/administration logs. These actions or



inactions violate Sections 195.050.6, RSMo, and 332.361.2(4), RSMo, as well as regulation 19 CSR 30-1.048(1).

8. Section 195.040.7, RSMo states, in relevant part:

...

7. A registration to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department of health and senior services upon a finding that the registrant:

...

(4) Has violated any federal controlled substances statute or regulation, or any provision of sections 195.005 to 195.425 or regulation promulgated pursuant to sections 195.005 to 195.425[.]

9. Section 195.050, RSMo states, in relevant part:

...

3. An official written order for any controlled substance listed in Schedules I and II shall be signed in duplicate by the person giving the order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the controlled substance named therein. In event of the acceptance of such order by the person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of sections 195.005 to 195.425. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with federal laws, respecting the requirements governing the use of order forms.

...

6. Every person registered to manufacture, distribute or dispense controlled substances under section 195.005 to 195.425 shall keep records and inventories of all such drugs in conformance with the record keeping and inventory requirements of federal law, and in accordance with any additional regulations of the department of health and senior services.

10. Section 332.361, RSMo states:

1. Any duly registered and currently licensed dentist in Missouri may write, and any pharmacist in Missouri who is currently licensed under the provisions of chapter 338, RSMo, and any amendments thereto, may fill any prescription of a duly registered and currently licensed dentist in Missouri for any drug necessary or proper in the practice of dentistry, provided that no



such prescription is in violation of either the Missouri or federal narcotic drug act.

2. Any duly registered and currently licensed dentist in Missouri may possess, have under his control, prescribe, administer, dispense, or distribute a "controlled substance" as that term is defined in section 195.010, RSMo, only to the extent that:

- (1) The dentist possesses the requisite valid federal and state registration to distribute that class of controlled substance;
- (2) The dentist prescribes, administers, dispenses, or distributes the controlled substance in the course of his professional practice of dentistry, and for no other reason;
- (3) A bona fide dentist-patient relationship exists; and
- (4) The dentist possesses, has under his control, prescribes, administers, dispenses, or distributes the controlled substance in accord with all pertinent requirements of the federal and Missouri narcotic drug and controlled substances acts, including the keeping of records and inventories when required therein.

11. Federal regulation 21 CFR 1305.09(e) states:

The purchaser shall record on Copy 3 of the order form the number of commercial or bulk containers furnished on each item and the dates on which such containers are received by the purchaser.

12. Regulation 19 CSR 30-1.048 states, in relevant part:

(1) Each individual practitioner, institutional practitioner and pharmacy shall maintain records with the following information for each controlled substance received, maintained, dispensed or disposed:

(A) The name of the substance;

(B) Each finished form (for example, ten milligram (10 mg) tablet or ten milligram (10 mg) concentration per fluid ounce or milliliter) and the number of units or volume of finished form in each commercial container (for example, 100 tablet bottle or three milliliter (3 ml) vial);

(C) The number of commercial containers of each finished form received from other persons, including the date of and number of containers in each receipt and the name, address and registration number of the person from whom the containers were received;



(D) The number of units or volume of the finished form dispensed including the name and address of the person to whom it was dispensed, the date of dispensing, the number of units or volume dispensed and the written or typewritten name or initials of the individual who dispensed or administered the substance;

(E) The number of units or volume of the finished forms, commercial containers, or both, disposed of in any other manner by the registrant, including the date and manner of disposal and the quantity of the substance in finished form disposed.

13. Licensee's actions as described in paragraphs 6 through 7 above constitute violations of state and federal drug laws as described in paragraphs 10 through 12 above for which the Board has cause to discipline Licensee's license.

14. Licensee's actions as described in paragraphs 6 through 7 above constitute violation of § 332.361, RSMo as described in paragraphs 11 through 12 above for which the Board has cause to discipline Licensee's license.

15. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(6) and (15) RSMo, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

...

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

...

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government[.]

Joint Agreed Disciplinary Order

16. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo: The terms of discipline shall include that the dental license, license number 013715, shall be **CENSURED**.



17. The parties to the Board Settlement Agreement understand that the Missouri Dental Board will maintain the Board Settlement Agreement as an open record of the Board as provided in Chapters 332, 610, 324, RSMo.

18. The terms of the Board Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither the Board Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

19. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of the Board Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Board Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems the Board Settlement Agreement or any portion thereof to be void or unenforceable.

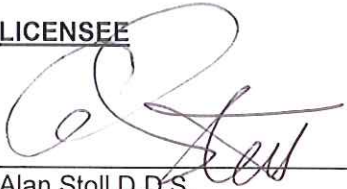
20. If no contested case has been filed against Licensee, Licensee has the right, either at the time the Board Settlement Agreement is signed by all parties or within fifteen days thereafter, to submit the Board Settlement Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the Board Settlement Agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review the Board Settlement Agreement, Licensee may submit this request to: **Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.**

21. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of act and conclusions of law stating that the facts agreed to by the parties are grounds for



disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the Board Settlement Agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

LICENSEE



Alan Stoll D.D.S.

Date

1-10-15

BOARD



Brian Barnett,
Executive Director
Missouri Dental Board

Date

1/21/2015

